IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5589 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PUNAMBHAI SHANABHIA JADAV

Versus

GENERAL MANAGER DIST UDYOG KENDRA

Appearance:

1. Special Civil Application No. 5589 of 1990

NOTICE SERVED for Petitioner No. 1

MR KC RAWAL, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 31/08/2004

ORAL JUDGEMENT

1. The petitioner, by way of this petition, has challenged the inaction on the part of the respondents not absorbing him on permanant basis and has also

challenged the order of termination.

2. The respondents have filed the reply and clarified their stand in paragraphs 4 and 5.

"4. I submit that the petitioner has challenged the legality and validity of suspension order dated 17.12.1985 under which the petitioner was placed under suspension, pending the Departmental Inquiry. I submit that at the consequence of quashing the impugned suspension order, the petitioner has also prayed for reinstatement in service with full back wages. I submit that the petitioner has not set out true and correct facts in the memo of petition, which has led to admission of the petition, by this Hon'ble Court, though the impugned suspension order was no more in force as on the date of issuance of rule by this Hon'ble Court.

5. I submit that the petitioner was originally working as a Peon and he was charged with the offence punishable under Section 379 read with Section 114 of the IPC. The petitioner was acquitted from the said charges under the judgment delivered by the learned JMFC, Rajpipla in Criminal Case No.1824 of 1985. However, considering the gravity of the case, the Government decided to hold Departmental Inquiry against the petitioner and the suspension order continued during the pendency of the said Departmental Inquiry. On conclusion of the Departmental Inquiry, the charges levelled against the petitioner held to be proved and thereupon the petitioner was dismissed from service with effect from 15.2.1989. I submit that the order of dismissal was issued by the Superintending Engineer, Narmada Canal Division No.2, Bharuch dated 14.2.1989 and the said order has come into force from 15.2.1989 a.n. and since then, the petitioner dismissed from service. I submit that since the petitioner has not brought the said order on record, the above petition was admitted by this Hon'ble Court and in the interim order directing the respondent State Government to decide the Inquiry within the stipulated time was given. I respectfully submit that in view of the fact that the petitioner is dismissed with effect from 15.2.1989 itself, the question of completion of the Inquiry does not remain."

3. Apart from that, similar issue has been decided by this Court in Special Civil Application Nos.3698 of 1990 and 4826 of 1990. In that view of the matter, now nothing survives in this matter.

4. In view of the above, this petition is required to be dismissed and is dismissed accordingly. Rule is discharged with no order as to costs.

(K.S.Jhaveri,J)

(pathan)